



Town of Marbletown
Zoning Board of Appeals
1925 Lucas Avenue
Cottkill, New York 12419
planning@marbletown.net

Zoning Board of Appeals
Approved Meeting Minutes
April 25th, 2023

Meeting Called to Order

6:01 P.M.

Pledge of Allegiance

Quorum Call:

Board Present: Tom Smiley, Andy Nilsen, Kathie Grambling, Egidio Tinti

Board Alternate Present: Nancy Birdsall

Board Late Arrival: Zach Bowman (6:03 p.m.)

Town Staff Present: Shawn Marks

Announcements:

- The Chair recognizes Nancy Birdsall as a Voting Alternate
- Kathie Grambling attended the Federation of Planners Conference in Saratoga. The Conference was a valuable offering, and I sent the session power point files to Shawn to share on the One Drive

Business:

1.) 2023-02 AV – Pagano Area Variance – Public Hearing

Richard Pagano

31 Vly Atwood Road, Stone Ridge, NY, 12484

SBL: 54.4-1-8.220; A3 Zone; 3.49 Ac +/-

Requesting an Area Variance to place a Carport within the required yard setback and for an existing Shed which is within the required yard setback

Rich Pagano in attendance for the Application

Andy Nilsen provided an overview of the Application and the Variance Requested:

- Request for an area variance on a proposed carport; setback 22 feet from property line
- Existing unpermitted Storage Shed will require a Variance; 20 feet from property line

The Applicant, Rich Pagano, provided an overview of his Variance Request, and engaged in discussion with the Board:



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- Would like to have a Carport to ease dealing with the elements during Winter and prolong the life of the vehicle; originally considered a one car garage, but carport is sufficient enough and a garage would impede our vista; carport is proposed to be at edge of the asphalt; 22.5 feet from property line
- Carport to be located at the end of the driveway; natural location, best for plowing snow/snow removal; ease of backing and turning around vehicles
- Medical condition that has effect upon ability to clear snow/ice from car and driveway
- Proposed location of carport is 300 feet from the road, difficult to see from road; lawn shed is 200 feet or more from road; surrounded by trees
- The Shed was missed during the purchase of the property and was unaware that it was not properly permitted or within the setback; called out by the CEO during his zoning determination
- Septic field and underground electric limits options on right side of front yard; topography on left makes it difficult to place shed; rear yard limited space and wishes to maintain the current family use of the space
- A. Nilsen noted that moving the carport back on the property would move it closer to the property line and increase the variance request due to the angle of the property line; the proposed location is distant from the street and with the tree line and topography of the property it would be difficult to see the carport from the roadway
- K. Grambling noted that carports which receive variances in front yards typically require enclosure to be added or screening to be considered
- Applicant notes that the proposed location is in line with the entrance to an old cattle trail through the rock wall which sprouts a line of wildflowers each year and provides some screening

The Board reviewed the Site Plan, Site photos, and distances to neighboring residences on the overhead projector

Motion to classify the application as a SEQRA Type II Action made by A. Nilsen, second by Z. Bowman; call of the roll with unanimous Aye. (5-0)

Point of Order from the Secretary: Zach Bowman currently not a voting member; Nancy Birdsall was seated in his absence at the beginning of the meeting; re-motion of last vote required



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Motion to classify the application as a SEQRA Type II Action made by A. Nilsen, second by K. Grambling; call of the roll with unanimous Aye. (5-0)

Motion to Open the Public Hearing for the Pagano Variance made by A. Nilsen, second by K. Grambling; call of the roll with unanimous Aye. (5-0)

Call for Public Comment: None

The Secretary reports that an email in support of the Variance was received and entered into the record from 51 Vly Atwood Road

Motion to Close the Public Hearing made by A. Nilsen, second by K. Grambling; call of the roll with unanimous Aye. (5-0)

The Board has 62 Days to make a determination on the Application

2.) 2023-04 AV – Helm Area Variance – New Application

Steve Helm

1 Stilba Lane, Stone Ridge, NY, 12484

SBL: 61.20-2-24; R-3 Zone, 0.5 Ac +/-

Requesting an Area Variance to place a new Pool/Storage Shed substantially within the footprint of two existing sheds which are to be demolished

Steve and Kristen Helm in attendance for the Application

Chairman Smiley provided an overview of the Application and the Variance Requested:

- Proposal to tear down two existing storage sheds and replace them with a single larger structure within the footprint; to be a Pool House/Storage Shed combination
- Pool House and Pool were properly permitted in 1975, and the metal storage shed was found to be initially unpermitted but was granted a permit in 2005; all structures were in place before the Applicant owned the property
- Structures were permitted at the time without any flag for noncompliance with regard to setbacks; despite non-conforming setbacks, the Town endorsed the two sheds and provided zoning permits
- The Applicant also proposing to replace an existing pool fence with a 5-foot-tall fence which will also require a variance based on the Fence Law



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- Parcel is a corner lot presenting a challenge; “accepted front yard” runs along Stilba Lane; pool and sheds are partially in the side yard and the rear yard; undersized lot with an interesting contour to Stilba Lane

Secretary Marks provided the setback and distance details of the Applicants proposal to the Board:

- Proposed to re-build within the footprint plus 3 feet; a 20’ x 24’ structure making the proposed nearest distance from the centerline of Stilba Lane 31.5 feet; currently 37 feet at the corner of the metal storage shed
- The current distance from nearest corner of the Pool Shed to the centerline of Stilba Lane is 36 feet. The current distance from the nearest corner of the Metal Storage Shed is 37 feet to the centerline of Stilba Lane; making the distance to the property line 11 feet and 12 feet, respectively. The distance to the opposite rear property line is proposed to be 12.5 feet.
- The new structure as proposed would move the distance 5.5 feet closer to the centerline of Stilba Lane; 6.5 feet from the property line
- Trigger on the need for the Fence Variance relates to the height of fence and its overall distance from the property line

The Board reviewed the Site Plan and supporting documentation on the overhead projector and engaged in discussion with the Applicants:

- Applicants noted that they maintain the strip of land beyond their side yard, which is the Town Right of Way along the left side of Stilba Lane. Applicant has been mowing and maintaining it as an extension of their yard
- Proposing to rebuild with a new structure and remove the old structures; enhance the character of the neighborhood; existing sheds are old and in disrepair
- Proposing to rebuild the existing 4-foot fence but increase the height to 5 feet; proposing a standard code compliant pool fence which does not obstruct views

Kathie Grambling to be Application Point

The Chair returns Nancy Birdsall to Alternate and Zach Bowman will now be a Voting Member

Motion to Accept and Open the Application made by Z. Bowman, second by A. Nilsen; call of the roll with unanimous Aye. (5-0)



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Motion to Set a Public Hearing for May 23rd, 2023, made by Z. Bowman, second by K. Grambling; call of the roll with unanimous Aye. (5-0)

The Applicant Point will arrange a Site Visit

3.) 2023-03 AV – Hines Area Variance – Public Hearing

Elizabeth Hines

152 Stone Dock Road, High Falls, NY, 12440

SBL: 69.4-2-19; R1 Zone, 1.11 Ac +/-

Requesting an Area Variance to place a Shed within the required yard setback

Elizabeth Hines in attendance for the Application

Motion to classify the application as a SEQRA Type II Action made by E. Tinti, second by K. Grambling; call of the roll with unanimous Aye. (5-0)

Egidio Tinti provided an overview of the Application and the Variance Requested:

- Proposal to place a 12' x 24' storage shed 20 feet from property line within setback; setback requirement is 30 feet; 10-foot variance
- Significant hardship created by an easement with the Golf Course which encompasses most of the rear yard; rear yard has low spots which are a concern for heavy rain and the parcel is also within a Flood Zone
- 20-foot drainage easement exists at the property line; 10-foot easement onto each side of the property line for the Golf Course; existing LP storage tank and Generator along same property line along with the Well
- Proposed location does not impede the adjacent parcel views of the golf course and open space; parcel is undersized; Stone Dock Road subdivision with undersized parcels all of similar character

The Board reviewed and discussed the Site Plan, supporting documentation, and photos collected by E. Tinti during his site visit on the overhead projector

The Board engaged in discussion with Applicant Elizabeth Hines:

- The drainage swale easement provides a degree of screening to the neighbors from the proposed location of the shed; provides enhanced distance between neighboring yards to a greater degree than the standard zoning setback



- Placement of the shed as proposed would provide sufficient clearance from existing trees on the property; proposed area is higher in elevation than the rear yard which is important due to the flood zone and potential for standing water after heavy rain
- Draining and movement of water is important to the neighborhood, the roadside swales and the golf course; high water table, keeping the area clear for water to move; No concerns with proposed placement of the shed in relation to care and maintenance of the drainage easement

Motion to Open the Public Hearing made by E. Tinti, second by A. Nilsen; call of the roll with unanimous Aye. (5-0)

Call to the Public for Comment: None

The Board reviewed two letters of support provided by neighbors in support of the Application

Motion to Close the Public Hearing made by K. Grambling, second by Z. Bowman; call of the roll with unanimous Aye. (5-0)

The Board has 62 Days to make a determination on the Application

Chairman Tom Smiley appointed Nancy Birdsall as a Voting member, appointed Andy Nilsen as the Acting Chair for the Sheen Application, and announced his recusal from the Sheen Area Variance Application due to being a family relation of the Agent for the Application

4.) 2023-05 AV – Sheen Area Variance – New Application

Dave Sheen and Jason Chiang

125 Mohonk Road, High Falls, NY, 12440

SBL: 70.3-6-15.100; R-1 Zone, 2.5 Ac +/-

Requesting an Area Variance to replace an existing Pole Barn within the required front yard setback to create an Accessory Apartment

Robyn Gullickson, Agent for the Application, provided an overview of the Application request and engaged in discussion with the Board:

- Proposal to create an Accessory Dwelling Unit by renovating an existing Pole Barn which is within the required front yard setback; structure turned out not to be structurally suitable for renovation
- During planning, it was found that although the barn is legally permitted, it did not meet the 40-foot front yard setback requirement; wish to proceed through the process and correct the setback with a variance prior to rebuilding in the same footprint



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The Board reviewed the Site Plan, Ulster County Parcel Viewer, and the supporting documentation on the overhead projector

The Board engaged the Agent in discussion on the details of the Application request:

- The Pole Barn is 12 feet shy of the 40-foot setback; proposed Accessory Apartment is planned to be rebuilt in the same footprint 28 feet from the front property line
- Applicant and Agent wish to be transparent about the need for the variance before proceeding forward despite the parcel being eligible for the creation of an Accessory Apartment and the structure being legally in existence and properly permitted
- Trees, vegetation, location of the existing driveway, and topography of the parcel prevent the structure from being constructed elsewhere on the property; property is a flag lot

Zach Bowman to be the Point Person for the Application

Motion to Set a Public Hearing for May 23rd, 2023, made by Z. Bowman, second by A. Nilsen; call of the roll with Unanimous Aye. (5-0)

Motion to Accept and Open the Application made by A. Nilsen, second by Z. Bowman; call of the roll with Unanimous Aye. (5-0)

Acting Chair Andy Nilsen returned Tom Smiley to the Chair and Nancy Birdsall returned to Alternate Member

5.) 2022-06 AV – Mollins Area Variance – Open Public Hearing

Reed Mollins

71 Cedar Hill Road, High Falls, NY, 12440

SBL: 70.3-5-3.100, R1 Zone, 3.00 Ac +/-

Requesting a Variance to place a Garage within the required front yard setback

Applicant Reed Mollins in attendance

The Chair re-called the Open & Carried Mollins Public Hearing

Egidio Tinti provided an update on the Application:

- Initial proposal the Board was asked to consider was a 96% + variance, being 26 feet from the centerline of Cedar Hill Road



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- Revised Site Plan was adjusted to propose the Garage being 16 feet off the 25 foot Right of Way setback; or 41 feet from centerline of Cedar Hill Road; 24 feet of the required 40-foot front yard setback
- 24 feet of the required 40 feet is a 60% variance request

The Board and Applicant Reed Mollins engaged in discussion on the revised Site Plan and the project details:

- When excavating the yard for possible placement of the garage, it was discovered that a majority of the yard is a massive bolder which raised the elevation of the yard 47 inches over 25 feet; the closer the garage can get to the road, the lower the elevation
- The bedrock poses a significant hardship to the placement of the garage; dense conglomerate rock which is impossible to chip and cut; contractor went through several saw blades and tips while working on the driveway for the Applicant
- The Applicant notes that there are several structures in the neighborhood that are closer than the proposed location for the garage; in character with the Cedar Hill neighborhood
- T. Smiley notes that from experience, in dealing with the type of bedrock found under the yard, in order for the Applicant to get to 50% compliance with the setback, not even full compliance, it would probably take the Applicant a week with a commercial rock drill and excavator with a hammer tip or one day of blasting with an excavator
- An email of support was received from the neighbor directly across the street from the proposed location of the garage; Aversano
- Applicant wishes to extend an existing Fence in front of the primary residence to continue along the yard down Cedar Hill; fencing is 8 feet high and is no longer compliant with the new Fence Law; would require a variance; Applicant marked the fencing on the Site Plan; requests the Board to consider if possible

Motion to classify the Application as a SEQRA Type II action made by E. Tinti, second by Z. Bowman; call of the roll with unanimous Aye. (5-0)

Motion to extend the Mollins Application and Public Hearing to the May 23rd, 2023, ZBA meeting made by K. Grambling, second by Z. Bowman; call of the roll with unanimous Aye. (5-0)



The Board discussed the Applicants request for consideration of a Fence Variance to be added to the current Garage Variance Application; the Board agreed that the Fence will require a separate Application and separate request; enough documentation has been gathered to make a determination on the Garage variance request

Motion to Close the Mollins Public Hearing made by K. Grambling, second by Z. Bowman, call of the roll with unanimous Aye. (5-0)

The Board has 62 Days to make a determination on the Application

Other Business:

1.) Approval of Meeting Minutes

Motion to Approve the March 2023 ZBA Meeting Minutes made by Z. Bowman, second by A. Nilsen; call of the roll with Unanimous Aye. (5-0)

Discussion of Determinations:

1.) 2023-02 AV – Pagano Area Variance – Closed Public Hearing

Richard Pagano

31 Vly Atwood Road, Stone Ridge, NY, 12484

SBL: 54.4-1-8.220; A3 Zone; 3.49 Ac +/-

Requesting an Area Variance to place a Carport within the required yard setback and for an existing Shed which is within the required yard setback

Andy Nilsen provided details for the Determination:

- Draft determination is partially completed; Determination will be for a Carport and for the existing Shed which is unpermitted and will require a variance; carport section of Determination is completed, but the Shed portion needs to be completed; will be presented as broken out into Variance "A" and Variance "B"
- Will have determination completed and ready for the May 2023 meeting

3.) 2023-03 AV – Hines Area Variance – Closed Public Hearing

Elizabeth Hines

152 Stone Dock Road, High Falls, NY, 12440

SBL: 69.4-2-19; R1 Zone, 1.11 Ac +/-

Requesting an Area Variance to place a Shed within the required yard setback



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The Board reviewed the Site Plan on the overhead projector

The Board read, reviewed, discussed, and edited the drafted Determination for the Hines Variance

Motion to Approve the Hines Area Variance Determination and Resolution made by K. Grambling, second by Z. Bowman; call of the roll: E. Tinti, Aye; K. Grambling, Aye; A. Nilsen, Aye; Z. Bowman, Aye; T. Smiley Aye.

The Board discussed the details of and preparation for the drafting of determinations on the Pagano and Mollins Applications to be considered at the May 2023 Board Meeting

Motion to Adjourn the meeting made by Z. Bowman, second by K. Grambling; call of the roll with unanimous Aye. (5-0)

Meeting Adjourned

7:34 P.M.

DRAFT SUBMITTED 5/7/2023

MINUTES APPROVED 5/23/2023

Shawn Marks